

REMARKS

An Office Action was mailed in the above-captioned application on September 27, 2004. In such Office Action claims 1-3, 7-9, and 37-54 were pending. Claims 1-3, 7-9, and 37-54 were rejected. This Amendment and Remarks document is submitted in response to said Office Action.

Informalities

The specification has been amended to provide a section on Government License Rights.

The Rejection under 35 U.S.C. § 102(a)

A. The rejection over Martin, et al. The Examiner has rejected Claims 1-3, 7-9, and 37-54 under 35 U.S.C. § 102(a) as being anticipated by Martin, et al., *Adv. Mater.* 11:1021-25 (1999). Submitted herewith is Declaration under 37 C.F.R. § 1.132 signed by inventors Michael J. Natan, Ph.D., and Thomas Mallouk, Ph.D. The Declaration states that the inventors are aware of the Martin, et al., reference, and declares that the cited disclosure in the above Martin, et al. publication was conceived or invented by the inventors and that the inventorship of this application is correct in that the reference discloses subject matter derived from the inventors rather than invented by the authors notwithstanding the authorship of the article.

It is believed that the Declaration is sufficient to overcome the rejection under 35 U.S.C. § 102(a).

B. The rejection over Routkevitch, et al. The Examiner has rejected Claims 1-3, 7-9, and 37-54 under 35 U.S.C. § 102(a) as being anticipated by Routkevitch, et al., (1996) *J. Phys. Chem.* 100:14037-47. The rejection reasons that Routkevitch, et al. discloses depositing a plurality of metal oxide particles into a nano-pore template, wherein at least one of the depositing steps is an electrochemical deposition; releasing the segmented nanoparticle; the same type of template; and the same ranges of particles.

Applicant respectfully traverses this rejection. Independent claims 1 and 47 require, among other steps, causing deposition of a first material into a pore of said template, and causing deposition of a second material into said pore of said template. Routkevitch, et al., describes the deposition of only a single material, CdS, into a template pore to generate a uniform nanowire.

There is no teaching in Routkevitch, et al., of depositing a second material into the template pore. Routkevitch, et al., therefore, can not anticipate Claim 1 or 47, or any claim dependent therefrom. Reconsideration is respectfully requested.

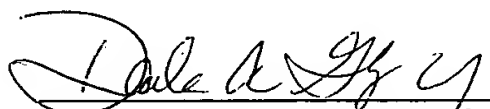
Closing Remarks

Applicant believes that the pending claims are in condition for allowance. If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

Date: January 12, 2005



Darla G. Yoerg, #48,053
Swanson & Bratschun, L.L.C.
1745 Shea Center Drive, Suite 330
Highlands Ranch, Colorado 80129
Telephone: (303) 268-0066
Facsimile: (303) 268-0065

Enclosure (Declaration)

S:\CLIENTFOLDERS\NANOPLEX\2182\COFFICE ACTION RESPONSE.DOC

cc: W. Leschensky, M. Natan